

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

WALTER RAGLIN,

Petitioner,

-vs-

BETTY MITCHELL, Warden,

Respondent.

:

Case No. 1:00-cv-767

:

District Judge Walter Herbert Rice
Chief Magistrate Judge Michael R. Merz

ORDER

This case is before the Court *sua sponte*.

On August 4, 2003, the Court granted Petitioner leave to file his First Amended Petition and Motion to Hold this case in abeyance pending exhaustion of state court proceedings (Doc. No. 70).

The parties were ordered to keep the Court currently apprised of the status of the state court proceedings. The only Report the Court has received (Doc. No. 22, filed on October 22, 2004) advised that the Ohio First District Court of Appeals had affirmed denial of the successive post-conviction petition and that an appeal would be filed with the Ohio Supreme Court. The Court contacted the Ohio Supreme Court Clerk's Office on March 2, 2005, and learned that that court had declined jurisdiction on February 16, 2005, and that the ten-day period allowed for a motion for reconsideration had expired on February 28, 2005. Accordingly, Petitioner is found to have exhausted his state court remedies on the claims raised in his successive post-conviction petition.

The abeyance order is accordingly VACATED and this case ordered restored to the active

docket. Pending before the Court is Respondent's Motion to Dismiss Petitioner's Second, Thirty-Seventh, and Thirty-Eighth Grounds for Relief and to Vacate the Abatement (Doc. No. 71). That portion of the Motion seeking vacation of the abatement is MOOT. Petitioner shall file his memorandum in opposition to the dismissal portion of the Motion not later than March 28, 2005.

Respondent's counsel is ordered to obtain copies of all relevant court papers from the successive post-conviction proceedings in all the Ohio courts which considered the matter and to file a supplemental return of writ with said documents not later than April 1, 2005.

March 2, 2005.

s/ **Michael R. Merz**
Chief United States Magistrate Judge